

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling**

**TONIA L. LEWIS,**

Plaintiff,

v.

**CIVIL ACTION NO. 5:21-CV-15**  
Judge Bailey

**P. ADAMS, WARDEN,  
CAPTAIN B. ASHER,  
S. HEALY, A.H.S.A.,  
DIRECTOR MICHAEL CARVAJAL,  
DR. GREGROY MIMS,  
NURSE JENNIFER UNDERWOOD,  
NURSE L. BIRD,  
DR. EMMANUEL ADAMS,  
NURSE KEENER,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 6]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on February 2, 2021, wherein he recommends that the Complaint [Doc. 1] be dismissed without prejudice for failure to exhaust administrative remedies.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 6] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Complaint [Doc. 1] is hereby **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. Further, the pending Motion to Proceed *in forma pauperis* [Doc. 2] is hereby **DENIED and the filing fee waived**. This Court further **ORDERS** that this matter be **STRICKEN** from the active docket of this Court and **DIRECTS** the Clerk to enter judgment in favor of defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* plaintiff.

**DATED:** February 23, 2021.



---

**JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE**